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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Benjamin Novi

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06/27/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

SHIBRU, HELEN

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

06/27/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/536,848	NOVI, BENJAMIN	
	Examiner	Art Unit	
	HELEN SHIBRU	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 0205.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. Figures 1-6 are objected to under 37 CFR 1.83(a) because they fail to show legends designating numbers as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hennig (US Pat. No. 5, 956, 455).

Regarding claim 1, Hennig discloses a method of recording a program comprised in a television signal, the television signal comprising program information including the real starting hour of at least a following program, characterized in that said method comprises the steps of: memorizing a theoretical starting hour of the program to be recorded (see figure 2, col. 3 lines 53-63); defining, among the following programs, a retained program satisfying a criterion of concordance relating to at least the memorized theoretical starting hour of the program to be recorded and the real starting hour of the following program included in the program information comprised in the television signal (see col. 4 lines 5-15 and col. 4 lines 39-61); and recording the television signal on the basis of the real starting hour of the retained program (see col. 7 lines 8-33).

Regarding claim 2, Hennig discloses transmitted program information includes a real ending hour of the program, characterized in that said method comprises the steps of: searching, during recording of the television signal corresponding to the retained program, a real ending hour of the program in said program information transmitted for the retained program (see col. 6 lines 36-col. 7 line 7), and stopping the recording at said real ending hour of the retained program (see col. 3 lines 53-63, col. 8 lines 4-9 and claim 1).

Regarding claim 3, Hennig discloses transmitted program information includes an indicator of the development of the present program, characterized in that said method comprises the steps of: following said indicator of the development of the present program (see fig. 5. col. 6 lines 12-35 and claim 2), and stopping the recording of the television signal during the absence

of the indicator of the development of the present program in said transmitted program information (see col. 8 lines 40-44).

Regarding claim 4, Hennig discloses transmitted program information includes a real ending hour of the program, characterized in that said method comprises a step of memorizing a theoretical ending hour of the program to be recorded, and in that said concordance criterion also relates to the memorized theoretical ending hour of the program to be recorded and to the real ending hour of the retained program in the program information comprised in the television signal (see col. 6 lines 36-col. 7 line 8).

Regarding claim 5, Hennig discloses concordance criterion is defined, for example, by the existence of a temporal overlap between the broadcast timetable for the following program and that defined between the theoretical starting hour and the theoretical ending hour whose duration exceeds the broadcast timetable of the following program by more than 70% (see col. 4 lines 5-34 and col. 6 lines 12-35, *100% is more than 70%*).

Regarding claim 6, device claim 6 is rejected for the same reasons as discussed in method claim 1 above.

Regarding claim 7, the limitation of claim 7 can be found in claim 1 above. Therefore claim 7 is analyzed and rejected for the same reasons as discussed in claim 1 above. See also figure 1 and col. 3 lines 33-40 in regard to the decoder and the means for controlling.

Regarding claim 8, the limitation of claim 8 can be found in claim 1 above. Therefore claim 8 is analyzed and rejected for the same reasons as discussed in claim 1 above. see also col. 3 in regard to the computer program product.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 8 is rejected under 35 U.S.C. 101 because the claims are directed to a recording medium storing nonfunctional descriptive material.

Data structures not claimed as embodied in computer-readable media are descriptive material per se and are not statutory because they are neither physical “things” nor statutory processes. See, e.g. Warmerdam, 33 F. 3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory) and merely claiming nonfunctional descriptive material stored in a computer-readable medium does not make it statutory. In addition a mere arrangements or compilations of facts or data, are merely stored so as to be read or outputted by a computer without creating any functional interrelationship either as part of the stored data or as part of the computing processes performed by the computer then such descriptive material alone does not impart functionality either to the data as so structured, or to the computer, and therefore are not statutory. See MPEP 2106.IV.B.1.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jackson et al. (US Pat. No. 5,963,264).

Proidl et al. (US PG PUB 2002/0087989).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELEN SHIBRU whose telephone number is (571)272-7329.

The examiner can normally be reached on M-F, 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THAI Q. TRAN can be reached on (571) 272-7382. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HELEN SHIBRU/
Examiner, Art Unit 2621
June 20, 2008

/Thai Tran/
Supervisory Patent Examiner,
Art Unit 2621.

Application/Control Number: 10/536,848
Art Unit: 2621

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